

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. NO.: 2730-04
BILL NO.: HCS for HB 1225
SUBJECT: Criminal Procedure: Mental Health
TYPE: Original
DATE: March 6, 2000

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
General Revenue	(\$273,693)	(\$150,751)	(\$75,713)
Total Estimated Net Effect on <u>All</u> State Funds	(\$273,693)	(\$150,751)	(\$75,713)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2001	FY 2002	FY 2003
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses
This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety - Missouri State Highway Patrol, Office of the State Public Defender**, and the **Office of State Courts Administrator** assume this proposal would have no fiscal impact to their agencies.

Officials of the **Department of Mental Health (DMH)** assume this proposal would create no additional duties for their department, so no fiscal impact is anticipated. The DMH currently provides psychological evaluations on all defendants in murder trials.

Officials from the **Department of Corrections (DOC)** stated that any fiscal impact which resulted due to passage of this proposal would occur after the 10.6 years that death-row inmates currently serve on average before execution, and is, therefore beyond the scope of this fiscal note.

Officials of the **Office of Prosecution Services** assume this proposal would not have a significant impact to prosecutors.

Officials from the **Office of the Attorney General** assume the costs of the proposal could be absorbed with existing resources.

Officials from the **Office of Administration - Division of Budget and Planning (OA)** assume that general revenue will provide funding for the Commission. OA further assumes that the commission would be staffed by an Executive Director (\$50,232) and a Clerk IV (\$25,440) in addition to the necessary expense and equipment for each position. It is assumed that the nine members will meet in Jefferson City four times each during FY 2001 and FY 2002, and twice during FY 2003 which will add travel and hearing-related expenses. It is assumed that the commission will contract for a study to analyze data as outlined in the proposal. OA assumes the cost of the study will be similar to that incurred for the sentencing study, or about \$130,000.

<u>FISCAL IMPACT - State Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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GENERAL REVENUE FUND

Costs - Office of Administration

Salaries	(\$63,060)	(\$75,672)	(\$37,836)
Fringe Benefits	(19,391)	(23,269)	(11,635)
Expense and Equipment	(191,242)	(51,810)	(26,242)
Total	<u>(\$273,693)</u>	<u>(\$150,751)</u>	<u>(\$75,713)</u>

Long Range Cost - Costs of incarceration of one additional person could range from \$0 to \$400,000, depending on how long the individual lives. Actual fiscal impact would not be realized for approximately ten years from the time of conviction.

Long Range Savings - In the absence of a death sentence, some appeals processes would be less protracted, and especially in cases where mental illness issues are raised and expert medical evidence is required, the appeals process is often as costly as long-term incarceration. Because there is no way to determine exactly how many or how extensive each case involving mental retardation may become, total cost savings are unknown.

<u>FISCAL IMPACT - Local Government</u>	FY 2001 (10 Mo.)	FY 2002	FY 2003
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0	0	0
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This substitute makes changes to provisions affecting the rights of defendants charged with murder. The substitute:

- (1) Requires that any information, evidence, statement, or confession obtained during

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interrogation of a mentally retarded person be excluded from evidence unless an attorney was present representing the defendant. The substitute requires a reasonable effort be made to contact

DESCRIPTION (continued)

a mentally retarded defendant's parent, guardian, or protector before interrogation (Section 544.681, RSMo);

(2) Prohibits the use of the death penalty for persons who are found to be mentally retarded by a preponderance of the evidence. The judge determines the issue of mental retardation prior to the trial. The substitute also defines "mental retardation" as a condition involving substantial limitations in general functioning (Section 565.030);

(3) Creates a commission on the death penalty to study all aspects of the death penalty in Missouri. The substitute designates the members of the commission and directs it to hold public hearings. The commission's findings, which must include recommendations for corrective amendments to the statutes and court rules, are to be available to the Governor, Legislature, and the Supreme Court by January 1, 2003 (Section 565.042).

This legislation is not federally mandated, would not duplicate any other program, and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Corrections
Department of Public Safety - Missouri State Highway Patrol
Department of Mental Health
Office of Prosecution Services
Office of Attorney General
Office of State Courts Administrator
Office of State Public Defender
Office of Administration
Division of Budget and Planning

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A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is stylized with a large, circular initial "J" and a long, sweeping horizontal stroke at the end.

Jeanne Jarrett, CPA
Director
March 6, 2000